

court issue. But, you can close the court issue by simply taking them out of the process within the context of the implementing legislation.

Mr. President, I believe, if you read the Federalist Papers, they make it about as clear as it could be. In Federalist 22, Hamilton called a quorum of more than a majority "poison for a deliberative assembly." That is what is being created here—what Hamilton called poison. He pointedly notes:

The necessity of unanimity in public bodies, or of something approaching towards it, has been founded upon a supposition that it would contribute to security. But its real operation is to embarrass the administration, to destroy the energy of Government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junto to the regular deliberations and decisions of a respectable majority.

That is about as clear as you can get. He goes on to say:

The public business must in some way or other go forward. If a pertinacious minority, respecting the best mode of conducting it, the majority in order to something may be done must conform to the views of the minority; and thus the sense of the smaller number will overrule that of the greater and give a tone to the national proceedings.

Hamilton was worried that the requirement of more than a majority would allow the minority to rule simply by not showing up.

When you require the fixed number of a House, not the fixed number of those present and voting, you have given to the minority the capacity not even to participate, and by not participating, they win. That is a tyranny of the minority. That is not majority rule.

Hamilton said, "Its situation must always savor of weakness, sometimes border on anarchy."

Mr. President, Hamilton feared that requiring more than a majority would effectively paralyze the Government's ability to act and could result in anarchy. Harsh and outrageous as that possibility may sound, those who threaten majority rule could threaten the power of the Federal Government by limiting its ability to act at all. All of us know how frustrating it can be to bring some issue to the floor, how long it takes, and how easy it is for one or two Members to frustrate the process. If you have to find that magical number, more than the majoritarian rule, you are already shifting the power in a remarkable way. A minority could limit the Government's ability to raise revenue, however unpopular that might be, or its ability to expend funds, and therefore limit what Hamilton called in Federalist 33 "The most important of the authorities of the Federal Government."

This amendment as drafted, Mr. President, is political dogma disguised as economic policy. It is the continuation of the ongoing effort to demonize certain national interests by demonizing those who promote any kind of national program to protect the American concept of community.

Mr. HATCH. Mr. President, is the Senator finished?

Mr. KERRY. Mr. President, I will yield for a question.

Mr. HATCH. How much longer will the Senator be?

Mr. KERRY. Mr. President, I have probably another 10 or so minutes. I know there is a 3 o'clock deadline. I do not want to delay any of my colleagues. If I could, I will ask unanimous consent that I could finish my comments, and I would be happy to yield for the purpose of permitting an amendment to be called up, if I can retain my rights to the floor thereafter.

Mr. HATCH. I appreciate my colleague for saying that. At 2:55, would it be OK if our colleague would yield so the distinguished Senator from California can call up an amendment and I can call up four amendments?

Mr. KERRY. I would be happy to delay for a moment now and let my friend from Utah call them up, or anybody else, if there is an understanding that I can simply return to complete my comments.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts?

Without objection, the Senator may yield without losing his right to the floor.

Mr. KERRY. I thank the Chair.

Mr. HATCH. If I could ask the Senator, we just need to call these up right before the time expires at 3. Ours have to be called up last.

UNANIMOUS CONSENT AGREEMENT

Mr. HATCH. I ask unanimous consent that right before 3 o'clock the Senator from California be allowed to call up her amendment, and I then be permitted to call up the amendments I have on behalf of the majority leader and myself.

The PRESIDING OFFICER. Is there objection to the request?

Mr. KERRY. Reserving the right to object, and I will not, I want to say that I would like to also be able to call up one amendment prior to the 3 o'clock deadline.

Mr. HATCH. If I can amend my request to say that the last three people to be recognized for amendments—unless somebody else comes in—will be the distinguished Senator from California to call up an amendment, the distinguished Senator from Massachusetts to call up an amendment, and I to call up a number of amendments for and on behalf of Senator DOLE and myself; I further ask unanimous consent that immediately following the calling up of these amendments, the ability to call up of amendments be closed, and that the amendments I called up to be the last ones to be called.

The PRESIDING OFFICER. Is there objection to the request?

Mr. KERRY. Reserving the right to object for the basis of our side, I do not see anybody here, and I presume that it assumes the 3 o'clock deadline has been passed.

Mr. HATCH. Right.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Will the Senator yield for one more unanimous consent request?

Mr. KERRY. I am happy to.

UNANIMOUS CONSENT AGREEMENT

Mr. HATCH. I ask unanimous consent that the Senator—except for that interruption—be permitted to complete his remarks today, and then the Senator from Missouri be able to complete his remarks, and the Senator from Florida be able to complete his remarks and then the Senator from California be able to complete her remarks, in that order, following the amendments.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

The Senator from Massachusetts has the floor.

Mr. KERRY. Mr. President, it is my fear that this amendment as it is currently drafted—and I want to emphasize that—begins the process that may permit an erosion of Government's ability to protect certain interests of every American based on a concept of majority rule. It begins to institutionalize a particular judgment, an economic judgment, against a whole set of other judgments which may, at some point in the not too distant future, be the majority view or general interest of the country, but not sufficient to gain 60 votes—but, nevertheless, sufficient to have 51 votes. They could be precluded from then representing those interests. That is, I think, upon reflection, a genuine threat to the notion of the democratic process.

I do not question the sincerity or the intention of those who believe that this is a bad idea whose time has come. But, Mr. President, I think we have to wonder whether we are not on a very dangerous path to fundamental changes in how we govern without the due process that our democracy demands.

The potential of minority rule on an issue as fundamental as raising revenues, I think, begins a dangerous process of beginning to dissolve whatever is left of America's spirit of community by limiting our ability to make decisions that go beyond city limits and State borders, and that may, in fact, be very unpopular, but we have to, if we are going to serve the Nation, preserve the flexibility and capacity for that kind of unpopular decision to be made.

So this debate is not really about specifically spending cuts. It is not about good economic policy. It is about the proliferation into the Constitution itself of a particular philosophy of the moment that almost suggests that the concept of community is lesser than the concept of individual interests. I do

not believe that, Mr. President. I think if we are going to maintain the community the Founding Fathers conceived of, then you have to maintain the majoritarian approach.

Mr. President, an awful lot of people a lot wiser than me have, frankly, found fault with this amendment based on that perception; that there is a shift in the balance of power between the branches of Government and that that is dangerous.

Walter Dellinger, an Assistant Attorney General, testified that:

Should the measure be enforced by the judiciary, it would produce an unprecedented restructuring of the balance of power between the branches of government. If it proves unenforceable, it would create quite a different but equally troubling hazard by writing an empty promise into the fundamental charter of our Government. It would breathe cynicism about our Government and diminish respect for the Constitution of the United States and the rule of law.

He goes on to say that,

The Constitution, as written by the framers, did not contain choices. It rather empowered people to enact the choices,

specifically, the kind of choices that I read that we have sworn to make in section 8 of article I.

He argues that a balanced budget amendment simply declares that outlays shall not exceed expenditures without ever explaining how this desirable state of affairs is going to come about and without specifying who among the Government officials should be empowered to ensure that the amendment is not violated or, if violated, how the Nation is brought into compliance.

The distinguished Harvard law school professor, Archibald Cox, opposes such an amendment for four reasons.

First, he said,

The amendment would damage the Constitution by introducing matters foreign to its fundamental and traditional purposes. It would undermine confidence in the Constitution by holding out an appearance of guarantees that will surely prove illusory. It would spawn disputes and charges of violation without providing either the means of resolving disputes or remedies for the actual threatened violations, except to bring in the courts. And that exception,

he said,

brings me to the last point, that the amendment risks bringing the courts into a field for which they are totally unequipped by experience.

On the politics of this amendment and the ruling of the majority on political issues, Professor Cox said,

Deciding whether or when to balance the budget or whether or when to risk a deficit calls for a judgment of policy, the kind of political judgment wisely left by the Founding Fathers to the majoritarian processes of representative government.

Mr. President, constitutional scholars have lined up against this amendment and have presented powerful arguments that raise serious questions about the impact of what we are about to do.

Another scholar, Kathleen Sullivan, expressed concerns about placing eco-

nomics theory in the governing document of the Nation. She said, "I oppose the amendment because I believe it would seriously undermine our established constitutional framework if it were adopted and enforced. Either way," she said, "these constitutional harms would far outweigh the meager benefits the amendment is likely to bring about in advancing its distinguished sponsors' entirely worthy goal of achieving national fiscal discipline." She goes on to quote Justice Holmes, saying that:

He was right when he warned: "The Constitution ought not embody a particular economic theory, be it that of Spencer or Keynes."

And about majority rule, she quotes Madison from Federalist 58, who argued that "requiring the supermajority to pass ordinary legislation turns democracy on its head."

Mr. President, the scholar that I was commenting on, Kathleen Sullivan, said about the issue of majority rule that in Federalist 58, Madison himself said that requiring a supermajority to pass ordinary legislation turns democracy on its head, and she jokingly but accurately pointed out the single most predictable consequence of a balanced budget amendment might well be a period of full employment for lawyers.

Mr. President, I believe Prof. Charles Fried of Harvard Law School has made one of the most compelling arguments against this amendment as it currently appears before the Senate. He said:

Majority rule is the rule that best expresses democracy. It best expresses it for health care, for defense, for the writing of criminal legislation with death penalties and for the passing of budgets—whether in surplus, in balance, or in deficit. To put this all more practically, the balanced budget amendment would just make it that much harder to govern, giving those who want to put obstacles in the way of government new opportunities for obstruction.

Professor Fried points out a balanced budget amendment would give "Any president a far better claim to impound funds than that which was asserted some 20 years ago by President Nixon," because the President's warrant would be drawn from, as President Nixon said it was, inherent powers of the Presidency. He could point to the Constitution itself and then he could argue it is his duty to do so.

Mr. President, it is not inconsequential if the President of the United States is permitted to impound. We will have created yet another shift in the balance of power, which I believe Members here would want to think twice about, no matter who is in the Presidency or which party controls the White House.

Professor Fried says passage of this amendment would inevitably involve the courts in what he calls "subtle and intricate legal questions, and the litigation that would ensue would be gruesome, intrusive, and not at all edifying."

He argues, Mr. President, against this amendment and I think everyone

knows that Prof. Charles Fried, former solicitor general, is certainly one of the more conservative members of the legal profession. He argues against this amendment as "Undemocratic and against the spirit of the Constitution." He says that when our Constitution withdraws a subject matter from majority rule, as it does in the Bill of Rights and the 14th amendment, it does so because there are things which no government may ever do. It may never abridge freedom of speech, no matter how strong the majority, and therefore it is withdrawn from majority rule.

His point is this: In no issue on which it is legitimately in the purview of this Government to rule is anything but a simple majority ever required with respect to policy issues.

Mr. President, majority rule ought to be held as the sacred standard of this body. If not, then we embark on a course that could be dangerous, indeed.

Dr. Fried said something that gave me pause beyond what I have quoted. In a most dramatic and compelling statement before the committee that summarizes the fundamental flaws of this current draft of the balanced budget amendment, he said something that I hope would give each person some pause no matter what their position on this amendment is.

It is a particular perspective about what we are about to do. Professor Fried said:

A balanced budget in any form, if it is workable, is a bad idea. The reason is simply that the political judgments underlying the amendment, sound and important though they are, are just that—political judgments—and as such they should not be withdrawn from the vicissitudes of ordinary majoritarian politics that the Constitution establishes as the general rule for our public life as a Nation. I am not entitled to have my bias against Government spending enshrined in the Constitution to frustrate the will of my fellow citizens expressed by a majority of our representatives.

I think that is a simple but powerful observation that goes to the heart of what is about to happen here, if this amendment is passed. We will enshrine a national bias against a particular choice of fiscal policy for all time; notwithstanding, however, that the political landscape may change.

The Constitution, Mr. President, as we all know, survives beyond each person here. And it ought to remain the same beacon of democracy that it has been for all time. It should not be a hodgepodge of popular gimmicks from one generation to the other. It should not become a means of addressing every difficult problem that we face as a people, and as a Nation. And it certainly should not be used as a cover for the unwillingness of Congress to exercise the will that it has the power to exercise today.

So, Mr. President, it is my hope that those few people who may remain undecided will think hard, in the hours ahead, about the weight of the Constitution and the history that we, in

the Senate, are responsible for. It is my hope that, in the end, people will choose not to burden the Constitution with this particular moment's idea, but rather to come to the floor of the U.S. Senate prepared to do what we have the power to do today.

I would close simply by repeating what I said previously: I am prepared to stay here now—through the next months—with an understanding that we will not have a filibuster, but that we will come up with a budget that sets us on the course to a balanced budget. Let 51 votes decide. If the American people decide that they are unhappy with that judgment, then the next election can be about just that.

We should not continue to use the process of delay for a small cluster of people on either side of the fence to frustrate the capacity of this body to make a judgment in the interests of the country, whether that judgment may be correct or incorrect. It is not for a small group to decide now that the judgment cannot be made at all. That frustrates the intent of the framers of the Constitution.

Mr. President, we do not have to pass an amendment. We could just get 60 people to sign a letter, each of them saying, "I am committing, this year, to passing a balanced budget over the next 7 years, 10 years, 15 years and guaranteeing that the expenditure line and the revenue line of this country are turned around and brought together at some point in time."

It seems to me that all we have to do is read the Constitution of the United States, once again. All we have to do is understand that whatever increased moral authority people believe they will get by passing this amendment, if the courts are not able to make the judgment—if the courts are, God save us all—but if they are not, this will ultimately hinge on whether we have to enforce section 6 to make this real. That comes down, to an exercise of the very same constitutional power we have today, when each Member swore here to uphold the Constitution, provide for the common defense, and promote the general welfare, and when we swore we would exercise our power under section 8 to pay the debts and provide for the common defense and general welfare of the United States.

We have the constitutional authority and power today. We lack the will. I hope the American people understand that this gimmick will not provide for the will that each of us should have come with to this institution in the first place.

Mr. President, I repeat: I am prepared for the first time to vote for a line-item veto. I am prepared to vote against the tax cuts with the exception of education, which I think is critical, and I am prepared to pose further cuts than are currently on the table.

But I am also prepared to find revenue, if it is needed, in an effort to be real about this and avoid the continued gimmickry which frustrates the will of the American people.

Mr. President, are we at the moment that we should turn to the amendments?

The PRESIDING OFFICER. Under the previous order, Senators are recognized now for the purpose of offering amendments. The Senator from Massachusetts reserved the right to offer an amendment before the hour of 3 o'clock, the Senator from California reserved the right to offer an amendment, and the Senator from Utah.

MOTION TO COMMIT

Mr. KERRY. Mr. President, I ask unanimous consent that my motion be called up and I ask unanimous consent that reading of the motion be dispensed with and that the motion be set aside for further deliberation at a later time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The text of the motion reads as follows:

MOTION TO COMMIT

The Senator from Massachusetts [Mr. KERRY] moves to commit H.J. Res. 1 to the Budget Committee, to report back forthwith and at a later time to issue a report which states that:

"The Congress of the United States currently possesses all necessary power and authority to adopt at any time a balanced budget for the United States Government, in that its outlays do not exceed its receipts, and to pass and submit to the President all legislation as may be necessary to implement such a balanced budget, including legislation reducing expenditures for federally-funded programs and agencies and increasing revenues.

"It is the responsibility of members of the House of Representatives and the Senate to do everything possible to use the power and authority the Congress now possesses in order to conduct the fiscal affairs of the nation in a prudent fashion that does not permit the federal government to provide the current generation with a standard of services and benefits for which that generation is unwilling to pay, thereby passing the responsibility for meeting costs of those services and benefits to later generations, which is the result of approving budgets which are significantly deficit financed.

"All members of the House and the Senate who vote to approve submission to the states of a proposed amendment to the United States Constitution requiring a balanced budget, have a responsibility to their constituents to support a budget plan to balance the budget by no later than 2002.

"The Congress should, prior to August 15, 1995, adopt a concurrent resolution on the budget establishing a budget plan to balance the budget by fiscal year 2002 consisting of the items set forth below:

"(a)(1) a budget for each fiscal year beginning with fiscal year 1996 and ending with fiscal year 2002 containing—

"(A) aggregate levels of new budget authority, outlays, revenues, and the deficit or surplus;

"(B) totals of new budget authority and outlays for each major functional category;

"(C) new budget authority and outlays, on an account-by-account basis, for each account with actual outlays or offsetting receipts of at least \$100,000,000 in fiscal year 1994; and

"(D) an allocation of Federal revenues among the major sources of such revenues;

"(2) a detailed list and description of changes in Federal law (including laws au-

thorizing appropriations or direct spending and tax laws) required to carry out the plan and the effective date of each such change; and

"(3) reconciliation directives to the appropriate committees of the House of Representatives and Senate instructing them to submit legislative changes to the Committee on the Budget of the House or Senate, as the case may be, to implement the plan set forth in the concurrent resolution, with the cited directives deemed to be directives within the meaning of section 310(a) of the Congressional Budget Act of 1974, and with the cited committee submissions combined without substantive revision upon their receipt by the Committee on the budget into an omnibus reconciliation bill which the Committee shall report to its House where it shall be considered in accord with procedures set forth in section 310 of the Congressional Budget Act of 1974.

"(c) the budget plan described in section (a)(1) shall be based upon Congressional Budget Office economic and technical assumptions and estimates of the spending and revenue effects of the legislative changes described in subsection (a)(2)."

AMENDMENT NO. 315

The PRESIDING OFFICER. Does the Senator from California desire to call up her amendment at this point?

Mrs. FEINSTEIN. Thank you, Mr. President.

I do desire to call up my amendment. I recognize that I have to ask unanimous consent to be able to do so.

The PRESIDING OFFICER. It has already been granted.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Senate proceed to amendment No. 315 and I ask for its immediate consideration.

Mr. HATCH. Mr. President, on behalf of this side, we have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATCH. Mr. President, I ask unanimous consent that it be in order for me to call up four filed motions under the majority leader's name.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO RECOMMIT

Mr. HATCH. Mr. President, I call up filed motion No. 4.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. DOLE, moves to recommit House Joint Resolution 1 to the Budget Committee.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The text of the motion reads as follows:

Motion to recommit House Joint Resolution 1 to the Budget Committee with instructions to report back forthwith House Joint Resolution 1 in status quo and, after passage of House Joint Resolution 1 and upon the request of the governors of the states promptly provide, to the extent practicable, data regarding how the Congress might achieve a balanced budget.

Mr. HATCH. Mr. President, I ask unanimous consent that the pending motion be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO RECOMMIT

Mr. HATCH. Mr. President, I now call up filed motion No. 3.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] for Mr. DOLE, moves to recommit House Joint Resolution 1 to the Budget Committee.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the motion reads as follows:

Motion to recommit House Joint Resolution 1 to the Budget Committee with instructions to report back forthwith House Joint Resolution 1 in status quo and report to the Senate at the earliest date practicable how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the federal old-age and survivors insurance trust fund and the federal disability insurance trust fund to achieve that goal.

Mr. HATCH. Mr. President, I ask unanimous consent that the pending motion be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO COMMIT

Mr. HATCH. Mr. President, I now call up filed motion No. 2.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] for Mr. DOLE, proposes to commit House Joint Resolution 1 to the Judiciary Committee.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the motion be dispensed.

The PRESIDING OFFICER. Without objection it is so ordered.

The text of the motion reads as follows:

Motion to commit House Joint Resolution 1 to the Judiciary Committee with instructions to report back forthwith House Joint Resolution 1 in status quo and to issue a report reaffirming the Committee's view that this Amendment does not sanction court involvement in fundamental macroeconomics and budgetary questions and expressing its support of Implementing Legislation which ensures a restricted role for the courts in enforcing this Amendment which will not interfere with the budgetary process.

Mr. HATCH. Mr. President, I now ask unanimous consent that the pending motion be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO COMMIT

Mr. HATCH. Mr. President, I call up filed motion No. 1.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] for Mr. DOLE, moves to commit House Joint Resolution 1 to the Judiciary Committee.

Mr. HATCH. I ask unanimous consent that reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the motion reads as follows:

Motion to commit House Joint Resolution 1 to the Judiciary Committee with instructions to report back forthwith House Joint Resolution 1.

The PRESIDING OFFICER (Mr. THOMPSON). Are there further amendments to be called up under the unanimous-consent request?

Mr. HATCH. Mr. President, the hour of 3 o'clock has arrived, and no further amendments can be called up.

The PRESIDING OFFICER. The Senator is correct. No further amendments are in order.

Mr. ASHCROFT addressed the Chair. The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I am grateful for this opportunity to make remarks about the most important action that we will be taking during this session of the U.S. Congress: A vote on a balanced budget amendment to the U.S. Constitution.

Of course, there have been a number of reasons elevated for our inspection by those who oppose the amendment, and I think inspection is what they deserve.

There are those who say that there are no problems with the Constitution, there are only problems with us as Members of the Senate. That is what constitutions are for. Rules are designed to correct problems in the way the players play the game. There are no problems with the rules of the basketball game, but you have to have a rule against fouling or the game gets out of hand.

Mr. President, the Constitution of the United States is full of ways of correcting abuses which would otherwise occur—because we would have problems as Members of the Senate in making correct judgments—absent the parameters of the Constitution.

When the Constitution of the United States starts in the Bill of Rights by saying "Congress shall have no power," it recognizes that the problem may be in Congress, and that the way to correct it is to have a framework which forbids Congress from engaging in the abuses which are hurting the American people or which might hurt the American people.

So for Members of this body to suggest that we do not need an amendment to the Constitution—because the problem is a problem of this body, or the individuals who populate this body, Mr. President—is to suggest that, "Well, we don't need a Constitution, we just all have to act appropriately."

It reminds me of the famous phrase out of Tammany Hall: "What is the Constitution among friends? Ignore it, we don't need it, we can just all act properly."

Constitutions, charters of government, are—and have been from the

Magna Carta forward—established on the basis of an understanding that people will not always act properly and, therefore, we need the restriction, we need the confinement, we need the guidance, we need the direction, we need the regulation of a document that protects us from abuses.

Interestingly enough, the balanced budget amendment is not really a protection for us against abuses. Oh, yes, we have been abused, but those who have been abused most dramatically are those who are not here yet. They are the children of the next generation. They are the individuals who have not yet gone to school, let alone gone to work. They are the people whose wages we are now spending before they even go to work. We are spending them to satisfy our appetite for program after program, for policy after policy, for interest group after interest group, in a wild credit card binge across America, buying votes for the next election to the U.S. Congress, be it the House of Representatives or the Senate.

We must curtail that, Mr. President. It is suggested by our friends—as the esteemed Senator from Massachusetts just a few moments ago suggested—that it is undemocratic to have a provision in the Constitution which would require that 60 votes in the Senate be required in the event you wanted to go into debt, asserting that it is undemocratic not to let the representatives of over 50 votes be able to have equal weight.

But I am worried about the votes of the next generation. I think it is undemocratic for this body to encumber the next generation, to say to the children of the next century they will not have an opportunity to decide how the tax revenues of their America will be spent because we will spend their taxes for them now.

We are talking about a fundamental problem here. It is a problem of taxation without representation and, yes, the problem is in the Senate, the problem is in human nature. And one of the reasons you have constitutions is not to say that if everyone acts at their best and highest level of responsibility we would not need it. The reason is that we know that there will be times of weakness, when in spite of all the good intentions, those good intentions will not lead us to do the right thing.

That is why the first amendment to the Constitution says, "Congress shall make no law," and as you get to the amendments added on through the amendment process, over and over again we have seen the wisdom of saying that Congress shall not be able to impair principles which are important to the future of this democracy. And that is where we are at this very moment in time.

It is fundamentally important, Mr. President, that we say about the next generation that we will build a hedge between them and the spending habits

of the U.S. Congress so that we in this body do not spend their birthright. Taxation without representation was the core, it was the kernel of the revolution, which grew and finally flourished in freedom—which has not only found its way from the Atlantic to the Pacific, but has found its way around the globe, nation after nation modeled on what we did here in America. But that revolution was a fundamental response to authorities somewhere else taxing us without representation.

I submit that that is exactly what we in this body have been doing by jeopardizing the future of the next generation. We have simply said to the next generation—without telling them because they are not here to hear us—that we are going to spend your money this way and we hope you are productive when you get here, because when you earn the money, it will be taken to pay for the excesses, to pay for the desires, to pay for the programs, to pay for our catering to special interests in our generation.

It is time we stop that. It is true that we could stop it without an amendment to the Constitution, but will we—or have we?

Over and over again in the debate, we have had it brought to our attention that through the eighties and even in the seventies and even as early as the sixties, there were resolutions of this body and there were laws enacted that would pry us out of the pattern of deficit spending—but absent a strong wall in the Constitution to protect those yet unborn generations, we have always managed to find our way to do what is expedient for the next election—not the next generation. It is time now for us to make such a commitment.

The idea that the pending amendment to the Constitution somehow would impair us from doing all the responsible things that our colleagues have said they would like to do—and I commend the Senator from Massachusetts for his willingness to say that he will support a line-item veto and that he will support cloture on it so that we can get real votes on expenditures—is inaccurate. Nothing in this proposed amendment, nothing in this resolution, would stop any Member of the Senate from engaging in that kind of responsible behavior in the next days and weeks and months to come.

Mr. President, nothing in this amendment would stop this body, in conjunction with the House of Representatives, with the cooperation of the President of the United States, from implementing a balanced budget at an earlier time. Nothing in this proposed amendment to the Constitution would impair a responsible Congress from doing what it ought to do.

So we have all the authority to do what is right that we have ever had—but our problem has not been the absence of authority to do what is right. Our problem is the absence of a prohibition against doing what is wrong.

And in the absence of that prohibition against doing what is wrong—spending the resources of the next generation—we find ourselves over and over again deeper and deeper in debt.

The President of the United States last year indicated that there would be reduced deficits and there would be a continuing decline in the level of deficits, and that commitment lasted almost a full year. Then this year's budget came out, and did we find ourselves with reduced deficits on a steady decline toward a balanced budget? No, there was simply a concession. The big white towel came out of the corner into the middle of the ring and we conceded that there would be deficits over \$200 billion on average for the next decade, and who knows what thereafter.

Again, the problem is not that we already have the authority to do what is right, the problem is that we are not prohibited from doing what is wrong. And what is wrong is spending the resources, spending the inheritance, spending the birthright, of the next generation. It is spending my kids' wages before they graduate from college. It is spending my grandchildren's opportunity to be productive in a world economy that is going to demand productivity, and if they are spending all of their resources on interest on our debt, if they have to tax people and businesses to pay for prior years' excesses—our excesses—they are not going to be competitive in a marketplace that requires productivity.

No, Mr. President. We, and they, will find ourselves sliding back into the backwater of the swamp of those nations that are incapable of being on the cutting edge.

It is time for us as a body to make a commitment to America's future. It is time for us to say, yes, the budget was balanced for well over 150 years except in time of war. It was a tacit agreement, it was an understanding, it was honored as if it were in the Constitution—but we do not have, apparently, the stature or the will or the capacity to do it now.

Nothing in the proposed amendment would keep us from doing it. But let us just ensure that we build this firewall between the next generation and the spending habits of the U.S. Congress, that we build a bulwark and we save those grandchildren—the next generation—from our spending habits. Let us say that as for us, as for me and my house, as for the Senate, as for this Government, as for this Nation, we will be responsible.

If the 1994 elections meant anything, I think they meant that the people of the United States rejected a Congress that was arrogant—a Congress so arrogant that it passed laws for other people to live by but that the Congress did not have to live by, a Congress so arrogant that it would tell State and local governments what to do, thinking that it had been elected to do State and local tasks as well as national tasks, and a Congress so arrogant that it

spends the money of the next generation as well as the resources of its own.

I think the people of America expect us to repudiate that behavior pattern, Mr. President. But frankly, they expect us to enact a constitutional amendment to assure them the pattern does not happen again. Time after time, they have listened to the U.S. Congress repudiate ways that were going to balance the budget. They have heard proposals indicating that there would be special withholdings to make sure that it did not happen, and time after time they have watched—sometimes when the curtain was drawn, sometimes when it was in full view—they have watched the U.S. Congress, having made a solemn oath, having made a legal commitment in a statute, turn around and change that statute.

The tragedy is that the U.S. Congress can change the rules for the U.S. Congress, and so a statute is not enough, a resolution is not enough, a sense of the Senate is not enough. The tragedy is that we can change our own rules, and we have changed them over and over again. That is the tragedy.

However, there is also beauty, Mr. President. The beauty is that the U.S. Congress cannot change the U.S. Constitution by itself, and so where we failed as a body in the past because we were always able to change the rules in the law, I believe we now have a chance for success if we put the pending rule in the Constitution—for this is not the transitory whim of just a majority in the Senate.

For this resolution to become the law of the land in the Constitution of the United States, it will take the ratification of three-quarters of the States, of the United States of America, to change it and adjust it. To erode it or impair it would take a similar consensus by all the States as well as this Congress.

And I believe at any of those junctures during the last three decades when the Congress weakened, we would not have found three-quarters of the States willing to weaken with them. Not on your life. The people of America would have said, stay the course. Let us make sure we maintain our commitment to a balanced budget.

It is time for us to enact the balanced budget amendment because it would stay the course, Mr. President.

Yes, the problem is a problem with the Congress. But the way to remedy the problem with the Congress is to build a wall between the Congress and the next generation.

Just to take us back for a moment in history, this Nation was founded as a result of a commitment that it was morally wrong and politically improper for one group to tax another group without its consent. The net result of the Currency and Revenue Act of 1764, undertaken by the British to end the smuggling trade on molasses as well as to raise additional revenue, was to give British sugargrowers an effective monopoly on the colonial sugar

market, and it irritated the colonists, it irritated Americans because we were being taxed without representation.

The Stamp Act of 1765, well known to every schoolchild, extended to America a broadly based form of direct taxation that had long been in use in Great Britain, and the colonists simply said "no taxation without representation." It is a principle embedded in the very depths of American history and in our character.

Patrick Henry, in response to that Stamp Act of 1765, said, "The colonists are entitled to all privileges and immunities of natural born citizens, to all intents and purposes as if they had been abiding in and born within the realm of England"—meaning no taxation without representation, a fundamental guarantee as old as the founding documents in Great Britain.

The Townshend duties of 1767 were passed to raise revenues on imports to this country, widely used imports like tea and window glass. And you know what happened with the Tea Act of 1773. And over and over again—the Coercive Act of 1774. All of these became a part of the very fabric of American life as did our resistance to taxation without representation.

And what are we doing when we have deficit spending? Are we taxing ourselves? No. We are taxing the next generation over and over and over again, thousands of dollars. Every man, woman, and child born in the United States comes into this world not with a clean slate but with a debt load. And we must make sure that when the Statue of Liberty holds high her lamp beside the golden door, it is not a lamp eliminated by a debtor nation; that it is a lamp of opportunity, not a lamp of responsibility to pay off the debts of previous generations.

A rising \$4.9 trillion debt amounts to taxation without representation. There is no other way to categorize it. I think of the young person, not old enough to vote, in the American Revolution, Nathan Hale, captured by the British. They handle him in the rough justice of wartime, and they decide to hang him as a traitor to the crown. And before he dies, he inspires us with the words, "I regret that I have but one life to give for my country." Nathan Hale, looking to the future, is willing to sacrifice himself. What a contrast, Mr. President, to where we stand in the United States today. Looking only to ourselves, we are willing to sacrifice the future.

Nathan Hale says, "I regret that I have but one life to give for my country." In this body we say we regret we have but one next generation to mortgage for our appetites.

We must cease. We cannot continue. It is beyond what free people should do to one another. But even more importantly, we should be unwilling to provide a debt load which will burden the next generation.

Mr. President, this is the single most important responsibility we have. It is

a responsibility that relates to the ability of this country and the next generation to be successful, for us to succeed rather than sink; for us to survive and to be a swimmer rather than a failure. That is what we need. We need to build a system which allows those who follow us to have the kind of opportunity we have enjoyed.

We have already talked about the fact that those on the other side of the aisle have said to us there are no problems with the Constitution, there are only problems with Members of the Senate. The truth of the matter is that is what Constitutions are for, to make sure that problem areas that are inherent in human nature do not find their way into policy. Let us keep those flaws out of policy and let us stop this practice of spending the next generation's resources before they are born.

Those opposed to the pending amendment have also complained that it requires a supermajority in order to raise the debt, or to abandon the principle of a balanced budget. They say such a requirement is undemocratic, that we should just be able to spend more than we take in if we have an even majority or a bare majority. In my judgment, what is undemocratic is to keep obligating the next generation, to keep obligating those who are yet unborn by spending their money.

The real tragedy is that the U.S. Senate—in all of its attempts to come up with a way to curtail spending, to stop itself from its spending binge, after setting enactment after enactment, after expressing itself over and over again—has each and every time subsequently come along and undone the deal, taken apart the framework and said we are going to let ourselves go, now that we are really hungry.

The problem is the Senate and the House, with a law, a mere statute, cannot bind the next Congress. What is an even bigger problem, though, is that while we as a body cannot bind the next Senate, we can bind the next generation to debt. So while we cannot bind ourselves to discipline, we continue binding the next generation to debt, over and over and over again. It is time for us to remedy that by enacting the kind of framework, the firewall, the bulwark, the barrier between the spending habits of the U.S. Congress and the well-being of the next generation of American citizens.

Mr. President, there have been those who have said we do not need anything to do with economic policy in the Constitution. As a matter of fact, it was one of the distinguished Members of this House who said the U.S. Constitution is decidedly not a charter of economic policy. For the first time it would be writing into the Constitution economic policy.

I went through the U.S. Constitution, seeking to find specific areas where we talked about things that would have direct economic impact. It is almost impossible to find a part of the Constitution that does not have economic

impact. I submit, whether you are talking about section 8, which provides for us to be able to pay our debts, or whether you are talking about section 7 of article I, that talks about bills for raising revenue that shall start in the House of Representatives, or whether you are talking about the ability to raise and support armies but no appropriation of money can last for more than 2 years.

That is an interesting part of our Constitution, to find in article I the language, and I read it:

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two years.

The idea that we would not commit future generations, we would not commit too far in advance, that we would not place a burden on those who were not represented in the Congress is intriguing—could it be that 2 years is the length of a congressional term? You would expect that the next Congress would not have to live under the debt or the requirement of the previous Congress.

My view is, when it comes to spending, is that we have always been willing to be pretty close about spending. We do not allow the Senate, for instance, which is not elected every 2 years, to be the originators of spending measures. Spending measures must originate in the House of Representatives, where the people are face-to-face with their Representatives every 2 years.

The Constitution is full of economic considerations. I went through it. The next page has more underlining, and the next one even more to highlight economically related items in the Constitution. More text is economically related than is not.

As a matter of fact, this entire document—the Constitution—is full of things that relate to our economy. The amendment to the U.S. Constitution which provided for the progressive income tax is a matter having perhaps the most direct economic impact of any single event in the history of the United States, and is part of the Constitution. The suggestion that something, because it has economic impact, does not belong in the Constitution of the United States is hollow, it is empty, because there are sections following sections, and sections upon sections and there are subsections and there are amendments and subparts of amendments that all relate to economic considerations. The very structure of the Constitution has to do with the economy of the United States.

Mr. President, one of the things you need to have for a good economy is a stable government. And we have the most stable government of any government in the world. Why? Because it is in the Constitution that we have two Houses, and that one of the Houses is the Senate, and that by design it does not have the same willingness to make quick changes as the House, and that it

would be a brake—or a more deliberative body than the House—while the House is very closely associated with the people, and perhaps more responsive to moods or fads in society which nevertheless might be good public policy.

We have had this joint way of doing things which has led to governmental stability. Is there an economic provision in the Constitution? It provided a basis for a sound economy. Without it, I wonder whether the United States would have flourished to the extent that we have flourished, economically or socially.

In my judgment, every word in the U.S. Constitution is a word that provides the basis for an economy and a set of opportunities that define the character of this Nation. And the economy cannot be taken out of the Constitution.

Of course, the balanced budget amendment is far more than just something related to the economy. As George Will said in his book "Restoration":

Proscribing deficits is different because deficits are political and moral events, not merely economic events.

Mr. President, a balanced budget amendment would do something of fundamental significance. It would protect important rights of an unrepresented group—the next generation. If the Constitution of the United States is not supposed to protect the rights of the unrepresented—and those who are helpless—what is the Constitution for?

The Constitution was indeed designed, was enacted, and was embraced by the American people—and has been and will be—because it protects us against abuses of power. It should also protect the important rights of an unrepresented group, as George Will puts it, the "unborn generations that must bear the burden of the debts."

The amendment would block a form of confiscation of property, of taxation without representation, of confiscation without due process of law. As I recall from my law school training—it has been a few years ago—but I believe the fifth amendment has something to say about taking without just compensation.

So here we find, Mr. President, that the Constitution—while it is full of documents and sections and clauses which have an impact on economics—is not only an economic document, it is a political and moral document, as well. Protecting the rights of those individuals who need protection is part and parcel of what the document is all about. And protecting them from what? Most frequently, protecting them from the U.S. Congress. Over and over again we read it: Congress shall make no law; the Congress shall not impair. That is the language of the Constitution.

Yes, the pending provision would have a financial and economic impact on this country. But it has a political and moral impact as well. It protects

freedom. It protects freedom from debt—something certainly worth protecting.

Let me just say that there is more to this amendment than protecting the next generation. We need it to teach the current generation. One of the aspects of government which is very important and fundamental to our society is the fact that government teaches.

We train our children—and rightly so—that government defines what is legal and what is illegal. And that they had better listen to what the Government says. Because, if you do bad things, you will do your time, as well. You will ruin your life. You will impair your freedom. You will destroy your opportunity.

Government is set up as the arbiter of what is legal and what is illegal. And children rightly begin to look to the Government as a moral arbiter of what is valuable, what is good, what is to be accepted, and what is not good, what is to be rejected. When people in a society look at their Government and conclude that their Government does not pay its debts, what does that teach? Does it teach responsibility?

We as a culture have a crisis concerning people accepting responsibility. They look at the Government, which they have been told is the arbiter of right and wrong. And what do we learn? What we are learning from the Government is, "Oh, don't worry about it. Just take the credit card and go on a binge, and hope the next generation pays for it."

The truth of matter is, we are learning irresponsibility. It not only destroys the character within us, but it destroys the opportunity of the next generation. It not only destroys their economic opportunity, it suggests to them the sinister failure of a moral certainty, which is that we should pay our own debts.

Anyone who thinks we should abandon the idea of having government act as a good example for our citizens ought to take a look at the news magazines for the recent weeks. Take a look at Newsweek a couple of weeks ago, Newsweek or Time. Forgive me for not distinguishing. The cover story was about the absence of shame in society, about no one having a sense of what is right or wrong, no one having a sense of responsibility. Take a look at the front page of U.S. News & World Report today. It is about men who forsake their families, who do not take care of their obligations, who act irresponsibly.

Mr. President, We preside over a Government that has forsaken the families of the future, which has mortgaged the next generation's inheritance and birthright. How can we expect our society to be moral and responsible when we—those who have been elected to lead the society—lead it with classic irresponsibility, abdicating our responsibility to limit ourselves to the resources we have? We just toss that principle away, pull up to the table,

roll up our sleeves with knife and fork, using our card—and their credit. And we impair and cheat the next generation.

This is the major challenge for those of us in the U.S. Congress this year. It is to reverse the concept that somehow the Congress is better than everyone else, that somehow the Congress does not have to live by the laws. We have taken a major step. In the Congressional Accountability Act we said we would live under the laws we passed for others. In the unfunded mandates law—which passed in the Senate and another version in the House, on which we are working to collaborate and work out the details—we said, yes; we are not even going to try to tell other people what to do through unfunded mandates.

We need to come to a further conclusion, Mr. President, and that is that we are not going to spend the wages, we are not going to spend the resources, we are not going to continue to sustain a policy which will put every newborn child in America in multi-thousand-dollar debt. We simply have to stop it. We have to say to the American people, we are not so good that we can spend the next generation's money. We are not so wise that we can make all their decisions for them. We have to say with a sense of humility that it is time for us to live like the average family. It is time for us to have a balanced budget like the average family has a balanced budget.

Some people say average families have debt. But there is no provision whereby any average family can impose debt on the next generation. You have to be able to pay it off, or you go bankrupt. No father can say, "My grandchildren will pay for what I am doing now." And should any father do so? Of course not. The average family has to have a plan to pay.

We do not have a plan to pay. State governments, sure, they have debt. But they have a plan to pay. And every day, they owe less than they did the day before, as they are paying off the debt. If they pay off the debt before the asset—such as a bridge or a building—is used or consumed, they actually have paid for such items in advance.

But we in Congress do not have a plan to pay. We have a plan to play. And the plan to play was outlined in the President's budget which came to us. We are playing with the next generation's resources, \$200 million—excuse me—\$200 billion. I was in State government too long. We only had millions instead of billions. What a tragedy; \$200 billion a year. We admit it. This is what we intend to do to you. We announce in advance with some pride that for the next 10 years we are going to keep doing it.

It is something that we should stop. Yes, Nathan Hale said, "I regret but that I have but one life to give for my country." We have been saying that we regret but that we have but one unborn